

## Practice note 14:

# State interests in development assessment in priority development areas

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## 1.0 Purpose

This practice note provides information about the consideration of State interests for proposed development in a priority development area (PDA) or provisional priority development area (PPDA) declared under the *Economic Development Act 2012* (ED Act).

The purpose of this practice note is to:

1. set out the **process** for a delegate of the Minister for Economic Development Queensland (MEDQ) under the ED Act **for considering State interests** in the assessment of a PDA development application, and
2. identify when development in a PDA or PPDA may require assessment by a State entity other than the MEDQ or the MEDQ delegate, under:
  - the *Planning Act 2016* (Planning Act) and the *Planning Regulation 2017* (Planning Regulation), or
  - other Acts.

## 2.0 Legislation and delegation of MEDQ powers and functions

### Economic Development Act 2012

The ED Act came into effect on 1 February 2013. Its main purpose is to facilitate economic development, and development for community purposes, in the State. The declaration of a PDA or PPDA is one primary way of achieving the ED Act's purpose.

The declaration of a PDA or PPDA changes the usual local government planning and development processes that apply to land under the Planning Act. Development under the ED Act is streamlined through efficient plan making and development assessment processes with shorter timeframes and fewer statutory steps than the statewide system.

The ED Act gives the MEDQ responsibility for the preparation of development instruments for PDAs and PPDA's, and for most development assessment in those areas, including with respect to State interests. However, in some circumstances, assessment by the State continues to be triggered under the Planning Act or another Act. Further details about these circumstances are provided below.

A local government's local laws continue to apply unless the matter has been dealt with in an ED Act by-law which provides that the local law does not apply (ED Act, s 54).

### Delegating of MEDQ powers and functions

Under s.169 of the ED Act, the MEDQ may delegate its powers or functions, including for development assessment, to various persons or entities, including a:

- departmental officer or employee<sup>1</sup>,
- the Cross River Rail Delivery Authority (CRRDA delegate),

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<sup>1</sup> For example, appropriately qualified officers or employees of Economic Development Queensland (EDQ) are departmental delegates.

- local government (local government delegate), and
- local representative committee (LRC delegate).

For ease of reference, in this practice note:

- the term **MEDQ delegate** refers collectively to the departmental delegate, CRRDA delegate, local government delegate, and LRC delegate and
- the term **local government delegate** includes an LRC delegate.

The **MEDQ delegate** must exercise the power and perform the functions of the MEDQ subject to:

- the general direction and control of the MEDQ, and
- any specific written direction given to it by the MEDQ (ED Act, s.170).

The MEDQ may give written direction to a **MEDQ delegate** to comply with this practice note or a guideline published by Economic Development Queensland (EDQ) with respect to identifying and considering **State interests** for development in a PDA or PPDA.

### State interests

State interests are defined in Schedule 1 of the ED Act to include:

- an interest relating to the main purpose of the ED Act, and
- an interest that, in MEDQ's opinion, affects an economic, community or environmental interest of the state or a region.

### Preparation of development scheme

A development scheme is a development instrument for a PDA which is prepared to replace the interim land use plan that takes effect when a PDA is declared<sup>2</sup>. When a development scheme is being prepared, the MEDQ must consider State interests. Although not bound by them, consideration must also be given to the requirements under assessment benchmarks prescribed by regulation under the Planning Act and other Acts for the Planning Act<sup>3</sup>. The State Development Assessment Provisions (SDAP) is an assessment benchmark and may be included in the State Planning Policy (SPP) and relevant regional plan.

Consultation is also required with the local government, and reasonable endeavors must be made to consult with entities likely to be affected by the development scheme (ED Act, s 58). Through collaboration with State agencies during development scheme preparation, relevant state interests are sought to be reconciled to the extent practicable for the circumstances of each PDA. This facilitates streamlined development assessment.

To address matters of State interest, development instruments may include development requirements for an area. These areas are shown on maps which form part of the development instrument.

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<sup>2</sup> For a PPDA, a provisional land use plan is prepared following a different process from a development scheme that includes public notification of the draft provisional land use plan, which took effect at declaration of the PPDA, and consultation with the relevant local government and other entities.

<sup>3</sup> For example, the *Environmental Protection Act 1994* which prescribes assessment benchmarks for environmentally relevant activities

The extent that each relevant State interest has been addressed in a development scheme, and the nature of the matters considered, provide the context and starting point for consideration of State interests when an application for PDA development approval is assessed.

## Development assessment

Under the ED Act, a PDA development application is required if a development instrument for a PDA or PPDA identifies the development as PDA assessable development<sup>4</sup>.

The development assessment processes under the ED Act and Planning Act differ in several ways. For example, under the Planning Act, the State Assessment and Referral Agency (SARA) is generally responsible for undertaking the State's assessment of proposed development. However, in many circumstances, development in a PDA and PDA-associated development is excluded from being assessable development under the Planning Regulation<sup>5</sup> (refer to the list of development shown shaded in the table at **Appendix 1**) and therefore a development approval under the Planning Act is not required. In these circumstances, the MEDQ is responsible for the consideration of relevant state interests when deciding a PDA development application (ED Act, s 87(1)(b)).

### Development assessment by an MEDQ delegate

Sections 3.0 to 6.0 of this practice note describes the process for an **MEDQ delegate** to follow when considering State interests in development assessment, and the steps a local government delegate is to take in consulting with EDQ. This process is also summarised in a flow chart on the last page of this practice note.

A **local government delegate** is to provide a written report to EDQ, in the form required, regarding the steps of the process followed.

### Development assessment by another State entity

There are two circumstances when development proposed in a PDA or PPDA may require assessment by an entity other than the **MEDQ delegate**:

1. the proposal involves assessable development under the Planning Act and Planning Regulation that is not excluded from assessment under that Act or regulation (refer to the list of development unshaded in the table at Appendix 1),
2. the proposal involves development that requires approval, or the proponent to take an action, under an Act other than the Planning Act (refer to appendix 2 for examples<sup>6</sup>).

To lawfully undertake development a development proponent is required to take any required action, or obtain any required approval, independently of the development assessment process

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<sup>4</sup> S.33(3) & 73 of the ED Act. An approval is also needed if a regulation makes the development PDA assessable development or if PDA-associated development declared for a PDA under s.40C(1) is identified by the MEDQ as PDA assessable development: s.33 of the ED Act.

<sup>5</sup> The *Planning Regulation 2017*, schedule 10 identifies assessable development. In many, but not all circumstances, PDA-related development is excluded from being assessable. 'PDA-related development' is defined as development in a priority development area, or PDA-associated development for a priority development area.

<sup>6</sup> The table in appendix 2 provides some examples of Acts that may be applicable to proposed development in a PDA. Any proposal requires the applicant to undertake a comprehensive appraisal to identify any approvals that may be required under an Act in addition to any approval under the Planning Act or ED Act.

under the ED Act. The appropriate sequencing of required actions or approvals will depend on the nature of the proposal and is determined by the proponent.

### **Development prohibited by the State under the Planning Act and Planning Regulation**

Certain development is prohibited under the Planning Act and Planning Regulation and no development application for it can be made. Appendix 3 identifies prohibited development under the Planning Act and Planning Regulation, including in a PDA.

## **3.0 Considering State interests for a PDA development application**

### **Pre-application**

When a development proponent enquires about proposed development in a PDA or PPDA, the **MEDQ delegate** must:

- advise the proponent that relevant state interests need to be considered when preparing a PDA development application; and
- encourage the proponent to consult with the delegate before an application is made.

In identifying the State interests to be addressed in an application, relevant considerations are:

- the development instrument,
- assessment benchmarks included in the State Planning Policy prepared under the Planning Act,
- the State Planning Policy mapping system,
- the State Development Assessment Provisions,
- the Development Assessment Mapping System,
- any advice available from **EDQ** regarding consideration of State interests at the time the development instrument was prepared, and
- any other relevant considerations identified by **EDQ** at the time of the enquiry.

A **local government delegate** may seek advice from EDQ<sup>7</sup> about the relevant State interests and, depending on the complexity or sensitivity of relevant state interests, EDQ may provide written advice or attend pre-application discussions.

### **Application**

#### **Copy of application to EDQ**

Within 5 business days of the properly made date for an application under s.82A of the ED Act, the **local government delegate** is to provide a copy of the application to EDQ. A longer period may be agreed with EDQ.

#### **Consideration by EDQ**

EDQ will advise the **local government delegate** within 5 business days of receiving the application (or a longer period agreed with the **local government delegate**) if it is considered:

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<sup>7</sup> EDQ is a business unit in a Queensland Government department, including the employees and officers within that business unit.

- there are no matters of state interest that are relevant,
- relevant State interests have been satisfactorily addressed by the application,
- information should be requested for relevant state interests to be adequately considered in deciding the application,
- conditions are appropriate to adequately address State interests, if the local government delegate decides to approve the application, or
- a PDA development approval is not appropriate because:
  - a State interest has not been adequately addressed by the application; or
  - a State interest cannot be satisfactorily addressed through one or more conditions of approval.

### Information request

Under s.83 of the ED Act, the **MEDQ delegate** may make an information request which is a request for further information required to decide the PDA development application, including in respect of relevant state interests.

If EDQ advises a **local government delegate** that information should be requested for state interests to be adequately considered, the **local government delegate** is to:

- have regard to the advice given by EDQ about State interests when making an information request,
- advise EDQ, at least 5 business days before the last day that an information request can be made, if considering not making the information request as suggested in EDQ's advice, and
- provide EDQ with a copy of any information request given to the applicant within 5 business days of giving the request.

### Response to information request

If EDQ advises a **local government delegate** that information should be requested for relevant State interests to be adequately considered in deciding the application, the **local government delegate** is to provide EDQ with a copy of the applicant's final response to the information request within 5 business days of receiving the response.

EDQ will advise the **local government delegate** within 5 business days of receiving the applicant's response to an information request whether EDQ considers the applicant has complied with the information request in relation to state interests.

After receiving EDQ's response, the **local government delegate**:

- is to have regard to the advice given by EDQ about compliance with the information request in relation to State interests,
- may, if satisfied that the applicant has complied with the information request, give notice to the applicant under s 83B of the ED Act, and
- is to provide EDQ with a copy of any notice given to the applicant under s.83B of the ED Act within 5 business days of giving the notice.

### Changing application

If, during the assessment of an application, the applicant makes changes to the application:

- that do not meet the threshold of a s.92 change under the ED Act (i.e. merely makes minor adjustments to the application) — EDQ does not need to receive a copy of the adjusted application.
- that meet the threshold of s.92 of the ED Act and the **local government delegate** is satisfied the change would not result in the relevant development being substantially different — a copy of the changed application is to be given to EDQ within 5 business days of the **local government delegate** agreeing in writing to the change application, unless an earlier response from EDQ stated circumstances when it is not required, and those circumstances still apply. For example, if the application does not affect one or more specified State Interests and, since EDQ's last consideration, there has been no change to those specified State interests as described in:
  - the *Planning Regulation 2017*,
  - the State Planning Policy (SPP) and the associated SPP Integrated Mapping System (SPP IMS), and
  - the State Development Assessment Provisions (SDAP) and the associated Development Assessment Mapping System (DAMS).

Where a copy of the change application is given to EDQ, EDQ will respond within 10 business days of receiving the changed application (or a longer period agreed with the **local government delegate**) and will advise one of the following:

- EDQ considers there is no relevant State interest,
- EDQ considers relevant State interests are satisfactorily addressed,
- the conditions which EDQ considers are appropriate to adequately address State interests if the **local government delegate** decides to approve the changed application,
- the information which EDQ considers necessary to address relevant State interests, or
- EDQ considers that a PDA development approval is not appropriate because:
  - a State interest has not been adequately addressed by the application, or
  - a State interest cannot be satisfactorily addressed through one or more conditions of approval.

After receiving EDQ's response, a **local government delegate** is to:

- have regard to the advice given by EDQ about deciding the changed application in relation to State interests,
- at least 10 business days before deciding the application, advise EDQ if considering deciding the application differently from the way EDQ considers it should be decided, and
- provide a copy of the final decision notice and any approved plans and documents to EDQ within 5 business days of giving the notice.

## Decision

Section 85 of the ED Act provides for the **MEDQ delegate** to decide the application once satisfied the requirements in s.85(1) are met. These requirements include that an applicant has been given a notice under s.83B in relation to an information request.

The application may be approved in whole or part, with or without conditions, or refused.

If appropriate, State interests may be addressed in one or more conditions of approval, including the nomination of an entity to be a nominated assessing authority for a condition.

The **MEDQ delegate** may also decide under s.85(4)(c) of the ED Act, to refuse an application having regard to a State interest.

If EDQ has been given a copy of a notice under s.83B of the ED Act, within 10 business days (or a longer agreed period) of receiving the copy, EDQ will advise the **local government delegate**, one of the following:

- EDQ considers there is no relevant State interest,
- EDQ considers relevant State interests are satisfactorily addressed,
- the conditions which EDQ considers are appropriate to adequately address State interests if the **local government delegate** decides to approve the application, or
- EDQ considers a PDA development approval is not appropriate because:
  - a State interest has not been adequately addressed by the application, or
  - a State interest cannot be satisfactorily addressed through one or more conditions of approval.

A **local government delegate** is to:

- have regard to the advice given by EDQ about deciding the application in relation to State interests including any response provided after being given a copy of the notice under s.83B of the ED Act,
- at least 10 business days before deciding the application, advise EDQ if considering deciding the application differently from the way EDQ considers it should be decided, including conditions, and
- provide a copy of the final decision notice and any approved plans and documents to EDQ within 5 business days of giving the notice.

## 4.0 Considering State interests for an application to change an approval

For an application to change a PDA development approval under s.99 of the ED Act, the process described in section 3.0 of this practice note applies.

## 5.0 Considering State interests for an application to extend the currency period of an approval

For an application to extend the currency period of a PDA development approval under s.101 of the ED Act, the **local government delegate** is to provide a copy of the application to EDQ within 5 business days of receiving the extension application.

EDQ will respond within 5 business days of receiving the extension application (or a longer period agreed with the **local government delegate**) and advise one of the following:

- EDQ considers there is no relevant State interest,

- EDQ considers relevant State interests are not adversely impacted by extension of the currency period, or
- EDQ considers the extension of the currency period is not appropriate because of an adverse impact on a State interest.

After receiving EDQ's response, a **local government delegate** is to:

- have regard to the advice given by EDQ about deciding the application in relation to State interests,
- at least 5 business days before deciding the application, advise EDQ if considering deciding the application differently from the way EDQ considers it should be decided, and
- provide a copy of the final decision notice to EDQ within 5 business days of making the decision.

## 6.0 Considering State interests for a PDA exemption certificate

For a request to **the local government delegate** to give an exemption certificate under s.71A of the ED Act, the **local government delegate** is to provide a copy of the request to EDQ within 5 business days of receiving the request.

EDQ will respond within 10 business days of receiving the request (or a longer period agreed with the **local government delegate**) and advise one of the following:

- EDQ considers there is no relevant State interest,
- EDQ considers all relevant State interests are satisfactorily addressed by the proposed development,
- the requirements which EDQ considers are appropriate to adequately address State interests if the local government delegate decides to give a PDA exemption certificate, or
- EDQ considers a PDA exemption certificate is not appropriate because:
  - a State interest has not been adequately addressed by the proposed development, or
  - a State interest cannot be satisfactorily addressed through one or more requirements.

After receiving EDQ's response, a **local government delegate** is to:

- have regard to the advice given by EDQ about deciding whether to give a PDA exemption certificate in relation to State interests,
- at least 10 business days before deciding the application, advise EDQ if considering deciding the request differently from the way EDQ considers it should be decided, and
- provide a copy of the PDA exemption certificate and documents to EDQ.

## Process for consideration of state interests in PDA development assessment<sup>8</sup>

<p><b>Pre-application</b></p> <ul style="list-style-type: none"> <li>• advice in relation to state interests</li> </ul>	<p>The <b>MEDQ delegate</b><sup>9</sup> must advise the applicant that relevant State interests need to be considered and encourage consultation with the delegate before an application is made.</p> <p>A <b>local government delegate</b> may seek advice from <b>EDQ</b>. <b>EDQ</b> may provide written advice or attend pre-application discussions, depending on the complexity or sensitivity of relevant State interests.</p>
<p><b>Application</b></p> <ul style="list-style-type: none"> <li>• adequacy of accompanying information re state interests</li> </ul>	<p>A <b>local government delegate</b> is to provide a copy of a properly made application to <b>EDQ</b> within <u>5 business days</u> of the properly made date for an application (ED Act, s.82A) (or a longer period agreed with the local government delegate).</p> <p><b>EDQ</b> will respond within <u>5 business days</u> of receiving the application (or a longer period agreed with the local government delegate). <b>EDQ</b> may advise the <b>local government delegate</b> of the information that <b>EDQ</b> considers should be requested to enable relevant state interests to be adequately considered in deciding the application. <b>EDQ</b> may also give advice regarding conditions of approval or whether a PDA development approval is not considered appropriate.</p>
<p><b>Information request –</b></p> <ul style="list-style-type: none"> <li>• in relation to state interests</li> </ul>	<p>The <b>MEDQ delegate</b> may make a request to the applicant for further information (ED Act, s.83). A <b>local government delegate</b> is to have regard to the advice given by <b>EDQ</b> and advise <b>EDQ</b>, at least <u>5 business days</u> before the last day a decision can be made, if considering not making the information request as suggested in <b>EDQ's</b> advice. If <b>EDQ</b> advises a <b>local government delegate</b> information should be requested for relevant state interests to be adequately considered, a copy of the applicant's final response to the information request is to be provided to <b>EDQ</b> within <u>5 business days</u> of receiving the response.</p> <p><b>EDQ</b> will advise the <b>local government delegate</b> within <u>5 business days</u> of receiving the applicant's response whether <b>EDQ</b> considers that the applicant has complied with the information request in relation to state interests. <b>The local government delegate</b> is to have regard to <b>EDQ's</b> advice and provide a copy of any notice given under s.83B.</p>
<p><b>Decision -</b></p> <ul style="list-style-type: none"> <li>• <b>EDQ</b> advice on compliance with information request re state interests</li> <li>• copy of the decision notice, and any approved plans and documents to <b>EDQ</b></li> </ul>	<p>The <b>MEDQ delegate</b> may decide the application once satisfied the applicant has complied with any information request and requirements for notification, if applicable (ED Act, s.85(1)).</p> <p>If no information request has been made, the <b>local government delegate</b> decides the application having regard to <b>EDQ's</b> advice given about state interests.</p> <p>If an information request is made and the applicant has been given a notice under s 83B of the ED Act that the information request has been complied with, the <b>local government delegate</b> is to decide the application having regard to <b>EDQ's</b> advice about state interests. <b>EDQ's</b> advice will be provided within <u>10 business days</u> (or a longer agreed period) of <b>EDQ</b> receiving a copy of the notice. A <b>local government delegate</b> is to also advise <b>EDQ</b>, at least <u>10 business days</u> before deciding the application, if considering deciding the application differently from the way <b>EDQ</b> considers it should be decided.</p> <p>A <b>local government delegate</b> is to provide a copy of the decision notice and any approved plans and documents to <b>EDQ</b> within <u>5 business days</u> of giving the notice.</p>

<sup>8</sup> The **MEDQ delegate** is the departmental delegate or **local government delegate**, as applicable. Also refer to footnote 1.

# Appendix 1: Development in priority development areas assessable under the *Planning Act 2016 – August 2021*

- The information in this table is a **guide only** and should not be relied upon as a complete guide to development in a priority development area (PDA). Only the *Planning Regulation 2017* has been reviewed in the preparation of this table. **Blue shaded items** are exempt under the *Planning Regulation 2017*.
- Specialist legal and planning advice should be obtained for each development, to ensure that all necessary approvals are obtained. The specific legislative provision should be consulted to obtain a full understanding of the provision, and also to check whether any part of the legislation has changed since the creation of this document.
- A local categorising instrument under the *Planning Act 2016* (planning scheme, temporary local planning instrument or variation approval) cannot make PDA-related development assessable (see Schedule 6, part 5, section 28 of the *Planning Regulation 2017*).

No.	Development type	Legislation and relevant section	Exemption / Trigger / Approval required	Authority that administers relevant legislation
<b>Airport land</b>				
1.	Development on airport land	<i>Planning Regulation 2017</i> Schedule 10, Part 1, Division 1, section 1(a)  <i>Airport Assets (Restructuring and Disposal) Act 2008.</i>	Development on airport land is assessable development, if the land use plan for the airport land states the development is assessable development.	Department of State Development, Infrastructure, Local Government and Planning  Queensland Treasury
2.	A material change of use on airport land	<i>Planning Regulation 2017</i> Schedule 10, Part 1, Division 1, section 1(b)  <i>Airport Assets (Restructuring and Disposal) Act 2008</i>	Development on airport land is assessable development, if the development is a material change of use that is inconsistent with the land use plan for the airport land.	Department of State Development, Infrastructure, Local Government and Planning  Queensland Treasury
<b>Aquaculture</b>				
3.	Making a material change of use of premises for aquaculture	<i>Planning Regulation 2017</i> Schedule 10, Part 6, Division 1, Subdivision 1, section 9  <i>Fisheries Act 1994.</i>	A material change of use of premises for aquaculture is assessable development, unless the material change of use is accepted development under schedule 7, part 2, section 3 of the <i>Planning Regulation 2017</i> . This item makes the following accepted development: “A material change of use for prescribed aquaculture, if requirements for the material change of use are prescribed under the <i>Fisheries Act</i> , section 32 and the material change of use complies with the requirements.”	Department of State Development, Infrastructure, Local Government and Planning  Department of Agriculture and Fisheries

No.	Development type	Legislation and relevant section	Exemption / Trigger / Approval required	Authority that administers relevant legislation
<b>Brothel</b>				
4.	A material change of use for a brothel	<i>Planning Regulation 2017</i> Schedule 10, Part 2, Division 2, section 3  <i>Prostitution Act 1999</i>	A material change of use of premises for a brothel.	Department of State Development, Infrastructure, Local Government and Planning  Department of Justice and Attorney-General
<b>Building work</b>				
5.	Carrying out building work (assessable under the <i>Building Act 1975</i> )	<i>Planning Regulation 2017</i> Schedule 9, Part 1, section 1  <i>Building Act 1975</i>	Building work under the Building Act is assessable development, unless the building work is accepted development under schedule 7 of the <i>Planning Regulation 2017</i> .	Department of State Development, Infrastructure, Local Government and Planning
<b>Contaminated land</b>				
6.	A material change of use (with certain credentials) if all or part of the premises are on the contaminated land register or the environmental management register.	<i>Planning Regulation 2017</i> Schedule 10, Part 4, Division 1, section 6  <i>Environmental Protection Act 1994</i>	A material change of use of premises, where: <ul style="list-style-type: none"> <li>• all or part of the premises are on the contaminated land register or the environmental management register under the <i>Environmental Protection Act 1994</i>; and</li> <li>• the premises are not being used for a sensitive land use; and</li> <li>• the material change of use involves: <ul style="list-style-type: none"> <li>○ a sensitive land use; or</li> <li>○ a commercial use involving an accessible underground facility, including, for example, a basement car park, workshop or office; and</li> </ul> </li> <li>• neither the contaminated land register nor the environmental management register state that the premises are suitable for the proposed use in accordance with a site suitability statement for the premises.</li> </ul>	Department of State Development, Infrastructure, Local Government and Planning  Department of Environment and Science
<b>COVID-19 vaccination service</b>				
7.	Making a material change of use of premises for a COVID-19 vaccination service	<i>Planning Regulation 2017</i> Part 4, Division 1, section 20A, and Schedule 7, Part 2, section 4A  <i>Planning Act 2016</i>	A material change of use for a COVID-19 vaccination service is assessable development unless the material change of use is accepted development under schedule 7, part 2, section 4A of the <i>Planning Regulation 2017</i> .	Department of State Development, Infrastructure, Local Government and Planning

No.	Development type	Legislation and relevant section	Exemption / Trigger / Approval required	Authority that administers relevant legislation
			Note: Provisions making a material change of use for a COVID-19 vaccination service in the <i>Planning Regulation 2017</i> accepted development expire on 31 December 2021.	
<b>Declared fish habitat area</b>				
8.	Operational work that is completely or partly in a declared fish habitat area	<i>Planning Regulation 2017</i> Schedule 10, Part 6, division 2, subdivision 1, section 10  <i>Fisheries Act 1994.</i>	Operational work completely or partly in a declared fish habitat area is assessable development, unless the work is accepted development under schedule 7, part 3, section 7 of the <i>Planning Regulation 2017</i> . This item makes the following accepted development: “Operational work completely or partly within a declared fish habitat area, if requirements for the work are prescribed under the <i>Fisheries Act</i> , section 32 and the work complies with the requirements.”	Department of State Development, Infrastructure, Local Government and Planning  Department of Agriculture and Fisheries
<b>Environmentally relevant activities</b>				
9.	Making a material change of use of premises for an environmentally relevant activity (ERA)	<i>Planning Regulation 2017</i> Schedule 10, Part 5, Division 2, section 8  <i>Environmental Protection Regulation 2019</i>	A material change of use of premises for an ERA is assessable development, if the activity is a concurrence ERA (the relevant ERA). However, this does not apply if: <ul style="list-style-type: none"> <li>• an environmental authority to carry out a concurrence ERA has been approved for the premises; and</li> <li>• the relevant ERA and concurrence ERA are to be carried out under the environmental authority; and</li> <li>• the relevant ERA has a lower aggregate environmental score than the concurrence ERA.</li> </ul>	Department of State Development, Infrastructure, Local Government and Planning  Department of Environment and Science
<b>Hazardous chemical facility</b>				
10.	Making a material change of use for a hazardous chemical facility  <i>hazardous chemical facility</i> means the use of premises for a facility at which a prescribed hazardous chemical is present or likely to be present in a quantity that exceeds 10% of the chemical's threshold quantity under the <i>Work Health and Safety Regulation 2011</i> , schedule 15.	<i>Planning Regulation 2017</i> Schedule 10, part 7, division 1, section 13  <i>Work Health and Safety Regulation 2011</i>	A material change of use for a hazardous chemical facility is assessable development.	Department of State Development, Infrastructure, Local Government and Planning  Department of Education

No.	Development type	Legislation and relevant section	Exemption / Trigger / Approval required	Authority that administers relevant legislation
<b>Koala habitat in SEQ region</b>				
11.	Development interfering with koala habitat in koala habitat areas outside koala priority areas	<i>Planning Regulation 2017</i> Schedule 10, part 10, section 16B  <i>Planning Act 2016</i>	Exemption applies for “exempted development”, which includes PDA-related development (Schedule 24).	Department of State Development, Infrastructure, Local Government and Planning
12.	Development for extractive industries in key resource areas	<i>Planning Regulation 2017</i> Schedule 10, part 10, section 16C  <i>Planning Act 2016</i>	Exemption applies for “exempted development”, which includes PDA-related development (Schedule 24).	Department of State Development, Infrastructure, Local Government and Planning
<b>Levees</b>				
13.	Operational work for construction or modification of levees (category 2 and 3)	<i>Planning Regulation 2017</i> Schedule 10, part 19, division 4, subdivision 1, section 32  <i>Water Regulation 2016.</i>	The following operational work is assessable development: <ul style="list-style-type: none"> <li>• construction of a new category 2 levee;</li> <li>• construction of a new category 3 levee;</li> <li>• modification of an existing levee if, after the modification, the levee will fulfil the requirements for a category 2 levee;</li> <li>• modification of an existing levee if, after the modification, the levee will fulfil the requirements for a category 3 levee.</li> </ul>	Department of State Development, Infrastructure, Local Government and Planning  Department of Regional Development, Manufacturing and Water
<b>Ports</b>				
14.	Development in a priority port’s master planned area  “Priority Port” means each of the following: (a) Port of Abbot Point; (b) Port of Gladstone; (c) the ports of Hay Point and Mackay; (d) Port of Townsville.	<i>Planning Regulation 2017</i> Schedule 10, Part 13, Division 4, Subdivision 1, section 19  <i>Sustainable Ports Development Act 1975</i>	Development is assessable if the port overlay for the master planned areas states that the development is assessable development.	Department of State Development, Infrastructure, Local Government and Planning

No.	Development type	Legislation and relevant section	Exemption / Trigger / Approval required	Authority that administers relevant legislation
15.	Development on strategic port land	<i>Planning Regulation 2017</i> Schedule 10, part 13, division 5, subdivision 1, section 20  <i>Transport Infrastructure Act 1994.</i>	Development on strategic port land is assessable development, if: <ul style="list-style-type: none"> <li>• either: <ul style="list-style-type: none"> <li>○ the land use plan for the strategic port land states the development is assessable development; or</li> <li>○ the development is a material change of use that is inconsistent with the land use plan; and</li> </ul> </li> <li>• for premises in a priority port's master planned area - the port overlay for the master planned area does not state a different category of development for the development.</li> </ul>	Department of State Development, Infrastructure, Local Government and Planning  Department of Transport and Main Roads
<b>Reconfiguring a lot</b>				
16.	Reconfiguring a lot under the <i>Land Title Act 1994</i>	<i>Planning Regulation 2017</i> Schedule 10, Part 14, Division 1, section 21  Land Titles Act 1994	Exemption applies if the reconfiguration is of a lot that is in a PDA, or that is PDA-associated land for a PDA.	Department of State Development, Infrastructure, Local Government and Planning
17.	Operational work for reconfiguring a lot	<i>Planning Regulation 2017</i> Schedule 10, Part 12, Division 1, section 18  <i>Planning Act 2016</i>	Operational work for reconfiguring a lot is only assessable development where the reconfiguring a lot is also assessable development.  Reconfiguring a lot under the <i>Land Title Act 1994</i> where the lot is (in amongst other things) in a PDA, or that is PDA-associated land for a PDA is exempt. Therefore, an exemption applies to operational work for reconfiguring a lot under the <i>Land Title Act 1994</i> that is in a PDA, or that is PDA-associated land for a PDA.	Department of State Development, Infrastructure, Local Government and Planning
<b>Referable dams</b>				
18.	Operational work for referable dams  The definition of referable dam in the <i>Planning Regulation</i> references the definition in the <i>Water Supply (Safety and Reliability) Act 2008</i> , section 341:  A dam is, or a proposed dam after its construction will be, a <b>referable dam</b> if—	<i>Planning Regulation 2017</i> Schedule 10, part 19, division 3, subdivision 1, section 31  <i>Water Supply (Safety and Reliability) Act 2008</i>	Operational work that is the construction of a dam, or relates to a dam, is assessable development, if: <ul style="list-style-type: none"> <li>• because of the work, the dam must be failure impact assessed; and</li> <li>• the accepted failure impact assessment for the dam states the dam has a category 1 failure impact rating or a category 2 failure impact rating.</li> </ul>	Department of State Development, Infrastructure, Local Government and Planning  Department of Regional Development, Manufacturing and Water

No.	Development type	Legislation and relevant section	Exemption / Trigger / Approval required	Authority that administers relevant legislation
	<p>(a) a failure impact assessment of the dam, or the proposed dam, is carried out under Chapter 4, Part 1 of the <i>Water Supply (Safety and Reliability) Act 2008</i>; and</p> <p>(b) the assessment states the dam has, or the proposed dam after its construction will have, a category 1 or category 2 failure impact rating; and</p> <p>(c) the chief executive has, under section 349, accepted the assessment.</p> <p>A dam is also a referable dam if:</p> <p>(a) under section 342B, the dam becomes a referable dam; and</p> <p>(b) the chief executive has not, under section 349, accepted a failure impact assessment of the dam.</p> <p>The following are not referable dams—</p> <p>(a) a hazardous waste dam;</p> <p>(b) a weir, unless the weir has a variable flow control structure on the crest of the weir.</p>			
<b>Removal, destruction or damage of marine plants</b>				
19.	Operational work that is the removal, destruction or damage of a marine plant	<i>Planning Regulation 2017</i> Schedule 10, Part 6, Division 3, Subdivision 1, section 11  <i>Fisheries Act 1994</i>	Exemption is for operational work for PDA-related development.	Department of State Development, Infrastructure, Local Government and Planning
<b>Removal of quarry material from a watercourse or lake</b>				
20.	Development for removing quarry material from a watercourse or lake.	<i>Planning Regulation 2017</i> Schedule 10, Part 19, Division 2, Subdivision 1, section 30  <i>Forestry Act 1959</i>	Exemption applies to PDA-related development.	Department of State Development, Infrastructure, Local Government and Planning
<b>SEQ development area</b>				

No.	Development type	Legislation and relevant section	Exemption / Trigger / Approval required	Authority that administers relevant legislation
21.	Material change of use of premises that are completely or partly in an SEQ development area	<i>Planning Regulation 2017</i> Schedule 10, Part 15, Division 2, Subdivision 1, section 22  <i>Planning Act 2016</i>	Exemption applies to “excluded development” which includes development stated in Schedule 6, relevantly including development that is PDA-related development (Schedule 6, Part 5, section 28).  <b>SEQ development area</b> means an area in the SEQ region identified in a gazette notice by the Minister as a major development area.	Department of State Development, Infrastructure, Local Government and Planning
<b>SEQ regional landscape and rural production area or the SEQ rural living area</b>				
22.	Making a material change of use of premises for a tourist activity or sport and recreation activity (with certain credentials) and all or part of the premises are in the SEQ regional landscape and rural production area or the SEQ rural living area	<i>Planning Regulation 2017</i> Schedule 10, Part 16, Division 2, Subdivision 1, section 24  <i>Planning Act 2016</i>	Exemption applies to “excluded development” which includes development stated in Schedule 6, relevantly including development that is PDA-related development (Schedule 6, Part 5, section 28).	Department of State Development, Infrastructure, Local Government and Planning
23.	Making a material change of use of premises for a residential care facility (with certain credentials) and all or part of the premises are in the SEQ regional landscape and rural production area or the SEQ rural living area	<i>Planning Regulation 2017</i> Schedule 10, Part 16, Division 3, Subdivision 2, section 26  <i>Planning Act 2016</i>	Exemption applies to “excluded development” which includes development stated in Schedule 6, relevantly including development that is PDA-related development (Schedule 6, Part 5, section 28).	Department of State Development, Infrastructure, Local Government and Planning
24.	Making a material change of use of premises for a community activity, other than a residential care facility, (with certain credentials) and all or part of the premises are in the SEQ regional landscape and rural production area or the SEQ rural living area	<i>Planning Regulation 2017</i> Schedule 10, Part 16, Division 3, Subdivision 2, section 27  <i>Planning Act 2016</i>	Exemption applies to “excluded development” which includes development stated in Schedule 6, relevantly including development that is PDA-related development (Schedule 6, Part 5, section 28).	Department of State Development, Infrastructure, Local Government and Planning
25.	Making a material change of use of premises for indoor recreation (with certain credentials) and all or part of the premises are in the SEQ regional landscape and rural production area or the SEQ rural living area	<i>Planning Regulation 2017</i> Schedule 10, Part 16, Division 4, Subdivision 1, section 27A  <i>Planning Act 2016</i>	Exemption applies to “excluded development” which includes development stated in Schedule 6, relevantly including development that is PDA-related development (Schedule 6, Part 5, section 28).	Department of State Development, Infrastructure, Local Government and Planning
26.	Making a material change of use of premises for a biotechnology industry (with certain credentials) and all or part of the premises are in the SEQ regional landscape and rural production area or the SEQ rural living area	<i>Planning Regulation 2017</i> Schedule 10, Part 16, Division 6, Subdivision 2, section 27D  <i>Planning Act 2016</i>	Exemption applies to “excluded development” which includes development stated in Schedule 6, relevantly including development that is PDA-related development (Schedule 6, Part 5, section 28).	Department of State Development, Infrastructure, Local Government and Planning

No.	Development type	Legislation and relevant section	Exemption / Trigger / Approval required	Authority that administers relevant legislation
27.	Making a material change of use of premises for a service station (with certain credentials) and all or part of the premises are in the SEQ regional landscape and rural production area or the SEQ rural living area	<i>Planning Regulation 2017</i> Schedule 10, Part 16, Division 6, Subdivision 2, section 27E  <i>Planning Act 2016</i>	Exemption applies to “excluded development” which includes development stated in Schedule 6, relevantly including development that is PDA-related development (Schedule 6, Part 5, section 28).	Department of State Development, Infrastructure, Local Government and Planning
28.	Making a material change of use of premises for an urban activity, other than a biotechnology industry or service station (with certain credentials), and all or part of the premises are in the SEQ regional landscape and rural production area or the SEQ rural living area	<i>Planning Regulation 2017</i> Schedule 10, Part 16, Division 6, Subdivision 2, section 27F  <i>Planning Act 2016</i>	Exemption applies to “excluded development” which includes development stated in Schedule 6, relevantly including development that is PDA-related development (Schedule 6, Part 5, section 28).	Department of State Development, Infrastructure, Local Government and Planning
29.	Making a material change of use of premises for two or more of the uses noted in 27G(1)(b) (with certain credentials), and all or part of the premises are in the SEQ regional landscape and rural production area or the SEQ rural living area	<i>Planning Regulation 2017</i> Schedule 10, Part 16, Division 7, Subdivision 1, section 27G  <i>Planning Act 2016</i>	Exemption applies to “excluded development” which includes development stated in Schedule 6, relevantly including development that is PDA-related development (Schedule 6, Part 5, section 28).	Department of State Development, Infrastructure, Local Government and Planning
<b>State and local heritage places</b>				
30.	Development on a local heritage place (other than a Queensland heritage place)	<i>Planning Regulation 2017</i> Schedule 10, Part 8, Division 1, Subdivision 1, section 14  <i>Queensland Heritage Act 1992</i>	Exemption applies to development that is stated in Schedule 6 of the <i>Planning Regulation 2017</i> , which includes development that is PDA-related development (Schedule 6, Part 5, section 28).	Department of State Development, Infrastructure, Local Government and Planning
31.	Development on a Queensland heritage place	<i>Planning Regulation 2017</i> Schedule 10, Part 8, Division 2, Subdivision 1, section 15(1)(d)  <i>Queensland Heritage Act 1992</i>	Exemption applies if development is PDA-related development.	Department of State Development, Infrastructure, Local Government and Planning
32.	A material change of use of premises on a lot that shares a common boundary with another lot that is or contains a Queensland heritage place	<i>Planning Regulation 2017</i> Schedule 10, Part 8, Division 2, Subdivision 1, section 15(3)(g)  <i>Queensland Heritage Act 1992</i>	Exemption applies if the material change of use is PDA-related development.	Department of State Development, Infrastructure, Local Government and Planning
33.	A material change of use of premises on a lot that contains a Queensland heritage place, but	<i>Planning Regulation 2017</i>	Exemption applies if the material change of use is PDA-related development.	Department of State Development,

No.	Development type	Legislation and relevant section	Exemption / Trigger / Approval required	Authority that administers relevant legislation
	is not carried out on the Queensland heritage place	Schedule 10, Part 8, Division 2, Subdivision 1, section 15(3)(g)  <i>Queensland Heritage Act 1992</i>		Infrastructure, Local Government and Planning
<b>Taking or interfering with water</b>				
34.	<p>Operational work that involves taking or interfering with, water.</p> <p>Operational work covered by this item:</p> <p>(a) taking or interfering with water in—</p> <p style="padding-left: 20px;">(i) a watercourse, lake or spring; or</p> <p style="padding-left: 20px;">(ii) a dam constructed on a watercourse or lake;</p> <p>(b) taking or interfering with underground water through an artesian bore, as defined under the <i>Water Act 2000</i>, schedule 4, other than through a monitoring bore;</p> <p>(c) taking or interfering with underground water through a subartesian bore, if the works are prescribed as assessable development under the <i>Water Act 2000</i>, section 39(f);</p> <p>(d) taking or interfering with underground water in a part of an underground water area, if the work is prescribed as assessable development for the part under the <i>Water Act 2000</i>, section 1046(2)(b);</p> <p>(e) taking or interfering with underground water through a subartesian bore if the work does not comply with the requirements that are prescribed under the <i>Water Act 2000</i>, section 1014(2)(g) for the work to be characterised as accepted development;</p> <p>(f) taking overland flow water, if the works are prescribed as assessable development under the <i>Water Act 2000</i>, section 39(f);</p>	<p><i>Planning Regulation 2017</i> Schedule 10, Part 19, Division 1, Subdivision 1, section 29</p> <p><i>Water Act 2000</i></p>	Exemption applies to PDA-related development.	Department of State Development, Infrastructure, Local Government and Planning

No.	Development type	Legislation and relevant section	Exemption / Trigger / Approval required	Authority that administers relevant legislation
	(g) taking overland flow water if the work does not comply with the requirements that are prescribed under the Water Act, section 1014(2)(g) for the work to be characterised as accepted development.			
<b>Tidal works or work in a coastal management district</b>				
35.	<p>Operational work that is tidal works or work completely or partly in a coastal management district.</p> <p>Apart from tidal works, this item also covers any of the following carried out completely or partly in a coastal management district—</p> <ul style="list-style-type: none"> <li>(i) interfering with quarry material, as defined under the <i>Coastal Protection and Management Act 1995</i>, on State coastal land above high-water mark;</li> <li>(ii) disposing of dredge spoil, or other solid waste material, in tidal water;</li> <li>(iii) constructing an artificial waterway;</li> <li>(iv) removing or interfering with coastal dunes on land, other than State coastal land, that is in an erosion prone area.</li> </ul>	<p><i>Planning Regulation 2017</i> Schedule 10, Part 17, Division 1, section 28</p> <p><i>Coastal Protection and Management Act 1995</i>.</p>	Exemption applies to PDA-related development.	<p>Department of State Development, Infrastructure, Local Government and Planning</p> <p>Department of Environment and Science</p>
<b>Vegetation clearing</b>				
36.	<p>Operational work for the clearing of native vegetation on prescribed land</p> <p>“Prescribed land” means—</p> <ul style="list-style-type: none"> <li>• freehold land; or</li> <li>• indigenous land; or</li> <li>• any of the following under the <i>Land Act 1994</i>: <ul style="list-style-type: none"> <li>○ leased land;</li> <li>○ land dedicated as a road;</li> <li>○ trust land, other than indigenous land;</li> </ul> </li> </ul>	<p><i>Planning Regulation 2017</i> Schedule 10, Part 3, Division 2, sections 4 and 5</p> <p>Schedule 21 of the <i>Planning Regulation 2017</i> - exempt clearing work</p> <p><i>Vegetation Management Act 1999</i>.</p>	<p>Exemption applies to “exempt clearing work” which includes clearing vegetation that is PDA-related development on:</p> <ul style="list-style-type: none"> <li>• freehold land;</li> <li>• indigenous land;</li> <li>• unallocated State land, if the clearing is carried out, or allowed to be carried out, by the chief executive of the department in which the Land Act is administered;</li> <li>• land subject to a licence or permit under the Land Act, if the clearing is carried out by the licensee or permittee.</li> </ul>	<p>Department of State Development, Infrastructure, Local Government and Planning</p> <p>Department of Resources</p>

No.	Development type	Legislation and relevant section	Exemption / Trigger / Approval required	Authority that administers relevant legislation
	<ul style="list-style-type: none"> <li>○ unallocated State land;</li> <li>○ land subject to a licence or permit;</li> <li>○ non-tidal watercourse land.</li> </ul> <p>“Native vegetation” means vegetation under <i>the Vegetation Management Act 1999</i> (VMA).</p> <p>However, the VMA does not define “native vegetation”. The VMA defines vegetation in section 8 as follows:</p> <p><b>Vegetation</b> is a native tree or plant other than the following—</p> <ul style="list-style-type: none"> <li>(a) grass or non-woody herbage;</li> <li>(b) a plant within a grassland regional ecosystem prescribed under a regulation;</li> <li>(c) a mangrove.</li> </ul>		<p>If none of the above exemptions apply, then the remainder of the general non-PDA specific exemptions in schedule 21 of the <i>Planning Regulation 2017</i> need to be reviewed to determine if any other exemptions apply. For example:</p> <ul style="list-style-type: none"> <li>• the exemption in schedule 21, part 1, item 1(3), about areas declared under the VMA, if carried out under the management plan for the area and for establishing a necessary fence, firebreak, road or vehicular track where the clearing cannot reasonably be avoided or minimised;</li> <li>• the exemption in schedule 21, part 1, item 1(13), about certain land stated in the <i>Forestry Act 1959</i> and to the extent the clearing is for accessing and extracting quarry material for road works under the <i>Transport Infrastructure Act 1994</i>;</li> <li>• any of the exemptions listed in schedule 21, part 2, item 5, about land dedicated as a road under the <i>Land Act 1994</i>.</li> </ul> <p>In addition, no approval is required if the clearing is accepted development under schedule 7, part 3, section 12. This item makes the following accepted development: “<i>Operational work that is clearing native vegetation to which an accepted development vegetation clearing code applies if the work complies with the code.</i>” An “accepted development vegetation clearing code” is defined by reference to the VMA, section 19O(1) and (2).</p> <p>If none of the exemptions in schedule 21 apply (i.e. it is not ‘exempt clearing work’), and the clearing is not accepted development under schedule 7, Part 3, section 12, the clearing will be assessable. Generally, this will arise where the clearing is PDA-related development and is to occur on the following types of land under the <i>Land Act</i>:</p> <ul style="list-style-type: none"> <li>• leased land;</li> <li>• land dedicated as a road; and</li> <li>• trust land, other than indigenous land.</li> </ul>	
<b>Waterway barrier works</b>				

No.	Development type	Legislation and relevant section	Exemption / Trigger / Approval required	Authority that administers relevant legislation
37.	<p>Operational work that is constructing or raising waterway barrier works.</p> <p>The schedule to the <i>Fisheries Act 1994</i> defines waterway barrier works as a dam, weir or other barrier across a waterway if the barrier limits fish stock access and movement along a waterway.</p>	<p><i>Planning Regulation 2017</i> Schedule 10, part 6, division 4, subdivision 1, section 12</p> <p><i>Fisheries Act 1994.</i></p>	<p>Operational work that is constructing or raising waterway barrier works is assessable development, unless the work is accepted development under schedule 7, part 3, section 6 of the <i>Planning Regulation 2017</i>. This item makes the following accepted development: “Operational work for constructing or raising waterway barrier works, if requirements for the work are prescribed under the <i>Fisheries Act, section 23 and the work complies with the requirements.</i>”</p>	<p>Department of State Development, Infrastructure, Local Government and Planning</p> <p>Department of Agriculture and Fisheries</p>
<b>Wetland protection area</b>				
38.	<p>Operational work that is high impact earthworks in a wetland protection area</p> <p>“High impact earthworks” is defined in schedule 24 of the <i>Planning Regulation 2017</i>.</p>	<p><i>Planning Regulation 2017</i> Schedule 10, part 20, division 2, section 34</p> <p><i>Environmental Protection Regulation 2019</i></p>	<p>Operational work that is high impact earthworks in a wetland protection area is assessable development, unless the operational work:</p> <ul style="list-style-type: none"> <li>• is for a domestic housing activity; or</li> <li>• is the natural and ordinary consequence of development that is a material change of use, or reconfiguring a lot, and all of the following apply: <ul style="list-style-type: none"> <li>○ the material change of use or reconfiguration involves high impact earthworks in a wetland protection area;</li> <li>○ a development permit is in effect for the material change of use or reconfiguration;</li> <li>○ the chief executive, or the chief executive (environment), had functions and powers as a referral agency or prescribed assessment manager in relation to the earthworks for the development application for the development permit; or</li> </ul> </li> <li>• is accepted development under schedule 7, part 3, section 9. Schedule 7, part 3, section 9 of the <i>Planning Regulation 2017</i> makes the following accepted development: “Operational work in a wetland protection area that— (a) is high impact earthworks; and (b) is carried out for electricity operating works or government supported transport infrastructure; and (c) complies with schedule 14.”</li> </ul>	<p>Department of State Development, Infrastructure, Local Government and Planning</p> <p>Department of Environment and Science</p>
<b>Wind farm</b>				

No.	Development type	Legislation and relevant section	Exemption / Trigger / Approval required	Authority that administers relevant legislation
39.	Making a material change of use of premises for a wind farm	<i>Planning Regulation 2017</i> Schedule 10, part 21, division 1, section 35  <i>Planning Act 2016</i>	A material change of use of premises for a wind farm is assessable development, unless the whole of the premises are subject to a designation for infrastructure for electricity operating works for a wind farm.	Department of State Development, Infrastructure, Local Government and Planning

## Appendix 2: Other legislation that applies in a PDA – examples

### August 2021

- 1. Approvals under local government local laws:** approvals required as specified in a local law unless an exemption in the local law applies or a by-law made under the *Economic Development Act 2012* applies which specifies that it replaces or varies a local law with respect to a PDA (*City of Brisbane Act 2010, Local Government Act 2009*).
- 2. Approval for works within a State-Controlled Road:** A person must not, without lawful excuse or the written approval of the chief executive, carry out road works on a State-controlled road or interfere with a State-controlled road or its operation (*Transport Infrastructure Act 1994*).
- 3. Environmental Authority to carry out an Environmentally Relevant Activity:** Carrying out one or more environmentally relevant activities (*Environmental Protection Act 1994*).
- 4. Water approval for a connection:** For a PDA or PDA-associated land, water approvals are not a complete assessment of a connection and related works, and the connection and related works can also be assessed or authorised under a local law or State law (e.g. the *Economic Development Act 2012, South-East Queensland Water (Distribution and Retail Restructuring) Act 2009*).
- 5. Authorities to take or interfere with the flow of water:** A water licence, water permit, water allocation, resource operations licence, distribution operations licence or operations licence may be granted to take or interfere with the flow of water (*Water Act 2000*).
- 6. Allocation of quarry materials in tidal water:** A person may apply to the chief executive for an allocation (removal) of quarry materials in tidal water. This includes removal of quarry materials from tidal water and placement of quarry materials in a coastal management district (*Coastal Protection and Management Act 1995*).
- 7. Taking protected species:** A person must not take a protected animal, or a protected plant that is in the wild, unless the taking is authorised under a licence, permit or other authority, or a conservation plan (*Nature Conservation Act 1992*).
- 8. Activities in an area of regional interest:** A regional interests development approval is required in order to carry out a regulated activity (i.e. broadacre cropping or water storage in a dam, in a strategic environmental area), in an area of regional interest (*Regional Planning Interests Act 2014*).

## Appendix 3: Development in priority development areas prohibited under the *Planning Act 2016 – August 2021*

- The information in this table is a guide only and should not be relied upon as a complete guide to prohibited development in a priority development area (PDA). Only the *Planning Regulation 2017* has been reviewed in the preparation of this table.
- Specialist legal and planning advice should be obtained for each development, to ensure that all necessary approvals are obtained. The specific legislative provision should be consulted to obtain a full understanding of the provision, and also to check whether any part of the legislation has changed since the creation of this document.
- A local categorising instrument under the *Planning Act 2016* (planning scheme, temporary local planning instrument or variation approval) cannot make PDA-related development assessable (see Schedule 6, Part 5, Section 28 of the *Planning Regulation 2017*). Nevertheless, certain types of development may be prohibited, including within a PDA.

No.	Development type	Legislation and relevant section	Prohibited development
<b>Brothel</b>			
1.	Material change of use for a brothel	<i>Planning Regulation 2017</i> , Schedule 10, Part 2, Division 1, section 2	A material change of use of premises for a brothel if: (a) more than 5 rooms in the proposed brothel are to be used to provide prostitution; or (b) the premises are – (i) in, or within 200m of the closest point on any boundary of, a residential area, measured by the shortest route a person may reasonably and lawfully take, on foot or by vehicle; or (ii) within 200m of the closest point on any boundary of land on which there is a residential building or public building; or (iii) within 100m of the closest point on any boundary of land on which there is a residential building or public building, measured in a straight line; or (c) for premises in a town with a population of less than 25,000 – (i) the local government for the town has prohibited all material changes of use for a brothel within the local government area; and

No.	Development type	Legislation and relevant section	Prohibited development
			<p>(ii) the Minister has agreed that the development should be prohibited.</p> <p>In this section –</p> <p><b>Public building</b> means –</p> <p>(a) a hospital; or</p> <p>(b) a kindergarten; or</p> <p>(c) a place of worship; or</p> <p>(d) a school; or</p> <p>(e) another place regularly frequented by children for recreational or cultural activities.</p> <p><b>Residential area</b> means –</p> <p>(a) an area that is mainly residential; or</p> <p>(b) an area approved for residential uses; or</p> <p>(c) an area intended to be residential in character.</p> <p><b>Residential building</b> means a building, or part of a building, mainly used for private residential use, other than a building, or part of a building, used only for caretaker’s accommodation on premises in an industrial area.</p>
<b>Clearing native vegetation other than for a relevant purpose</b>			
2.	<p>Operational work for the clearing of native vegetation on prescribed land</p> <p>Prescribed land means—</p> <ul style="list-style-type: none"> <li>• freehold land; or</li> <li>• indigenous land; or</li> <li>• any of the following under the <i>Land Act 1994</i>: <ul style="list-style-type: none"> <li>○ leased land;</li> </ul> </li> </ul>	<p><i>Planning Regulation 2017</i>, Schedule 10, Part 3, Division 1, section 4(1)</p> <p>Schedule 21 of the <i>Planning Regulation 2017</i> - exempt clearing work</p> <p><i>Vegetation Management Act 1999</i></p>	<p>Operational work that is the clearing of native vegetation on prescribed land to the extent the work-</p> <p>(a) is not for a relevant purpose under the <i>Vegetation Management Act</i>, section 22A; and</p> <p>(b) is not exempt clearing work; and</p> <p>(c) is not accepted development under Schedule 7, part 3, section 12.</p> <p>To check if it is ‘exempt clearing work’, the exemptions in Schedule 21 of the <i>Planning Regulation 2017</i> need to be reviewed carefully.</p>

No.	Development type	Legislation and relevant section	Prohibited development
	<ul style="list-style-type: none"> <li>○ land dedicated as a road;</li> <li>○ trust land, other than indigenous land;</li> <li>○ unallocated State land;</li> <li>○ land subject to a licence or permit;</li> <li>○ non-tidal watercourse land.</li> </ul> <p>“Native vegetation” means vegetation under <i>the Vegetation Management Act 1999</i> (VMA).</p> <p>However, the VMA does not define “native vegetation”. The VMA defines vegetation in section 8 as follows:</p> <p><b>Vegetation</b> is a native tree or plant other than the following—</p> <p>(a) grass or non-woody herbage;</p>		

No.	Development type	Legislation and relevant section	Prohibited development
	(b) a plant within a grassland regional ecosystem prescribed under a regulation; (c) a mangrove.		
3.	Material change of use	<i>Planning Regulation 2017</i> , Schedule 10, Part 3, Division 1, section 4(2)	A material change of use that is assessable development under a local categorising instrument if and to the extent – (a) the material change of use involves operational work that is prohibited development under Schedule 10, Part 3, Division 1, section 4(1), other than operational work approved under a development approval; and (b) the chief executive would, because of the clearing, be a referral agency for the material change of use under division 4, table 3 if a development application were made for the material change of use.
<b>Koala habitat in SEQ Region</b>			
4.	Development interfering with koala habitat in koala priority area and koala habitat area	<i>Planning Regulation 2017</i> , Schedule 10, Part 10, Division 1, section 16A	Exemption applies for “exempted development”, which includes PDA-related development (Schedule 24).
<b>Wetland protection area</b>			
5.	Operational work in a wetland protection area	<i>Planning Regulation 2017</i> , Schedule 10, Part 20, Division 1, section 33	Operational work that is high impact earthworks in a wetland protection area if – (a) the development is carried out for: (i) electricity operating works; or (ii) government supported transport infrastructure; and (b) the development is not accepted development under Schedule 7, part 3, section 9.